

REMARKS

This Response and Amendment is in response to the Office Action mailed on September 26, 2003. Reconsideration of this application is respectfully requested.

Form PTO-1449

An initialed copy of the Form PTO-1449 submitted with the Information Disclosure Statement filed on July 9, 2003, was not returned with the Office Action mailed on September 26, 2003. Copies of the Form PTO-1449 and its stamped post card receipt are submitted herewith for the Examiner's convenience. Applicants request that the Examiner initial the listed references on the Form PTO-1449 and provide a copy thereof with the next office correspondence.

Disposition of Claims

The Office Action incorrectly indicated that 27 claims rather than 37 claims are pending in this application. Applicants assume that Claims 28-37 have been withdrawn based on the Response to Restriction / Election Requirement filed on July 3, 2003, and have acted accordingly in this Response and Amendment.

Claim Rejections

1. The Office Action rejected Claims 1, 3, 10-13, 18-20 and 22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,681,566 to Fenton, Jr. et al. ("the Fenton patent") and U.S. Patent No. 4,838,857 to Strowe et al. ("the Strowe patent"). This rejection is respectfully traversed.

Claim 1, as amended, substantially includes the limitations of original Claim 3 and specifies, *inter alia*, a lever arm connected to the drive member to impart reciprocal linear motion to the syringe plunger. Assuming that patentable weight has not been given to the preamble limitations present in Claim 1, the body limitations of Claim 1 now clearly define over the Fenton and Strowe patents.

The Fenton patent discloses at col. 5, line 30, that

The link members [42, 43] couple one of the spring puller members [100, 102] with the actuating cover member 14. The link members are pivotally coupled to the actuating cover member 14 about an axis 50 which is parallel to the cover axis 24, and those link members are pivotally coupled to one of the spring puller members about an axis parallel to the cover axis 24.

The Fenton patent also discloses that the spring puller members 100, 102 are connected to the leaf springs 51, 52 carried by the spring carrier member 53. (Col. 5, lines 24-39; Figure 5.) Further, the spring carrier member 53 is rigidly coupled to the plunger driver member 54. (Col. 6, lines 29-30.)

Thus, the Fenton patent does not disclose or suggest that the cover member 14 is connected to the plunger drive member 54, as would be required to anticipate Claim 1. Rather, the cover member 14 is connected to the link members 42, 43, and only through numerous intermediate structures (i.e., the spring puller members 100, 102, the springs, 51, 52, and the spring carrier member 53) is it associated with the plunger drive member 54.

With regard to the Strowe patent, the Office Action provides no indication as to what structure or features thereof purportedly anticipate the elements or limitations of original or amended Claim 1. Rather, the Office Action merely recites some of the

relevant language of the rejected claims, and then baldly states that the Strowe patent teaches the claimed device. Applicants submit that the unsupported rejection based on the Strowe patent does not rise to the level of a *prima facie* showing of anticipation, and that the rejection should therefore be withdrawn or supported by reference to specific structures in the Strowe patent that purport to anticipate the invention of Claim 1. In any event, Applicants submit that the Strowe patent does not disclose a lever that is connected to a plunger drive member, as specified in Claim 1.

Turning to Claim 18, Applicants submit that the Fenton and Strowe patents do not disclose separate injector and syringe loader devices to which a syringe can be attached. Rather, each reference discloses a single infusion device. Further, by failing to indicate any structure in the Fenton and Strowe patents to support the stated rejection, Applicants submit that a *prima facie* anticipation case has not been proffered in the Office Action.

For at least the above reasons, Applicants submit that the Fenton and Strowe patents do not disclose each and every element or limitation of Claims 1, 3, 10-13, 18-20 and 22, and that the rejection based thereon should be withdrawn.

2. The Office Action rejected Claims 1, 3, 10-13, 18-20 and 22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,048,334 to Hirschman et al. ("the Hirschman patent") and U.S. Patent No. 6,090,064 to Reilly et al. ("the Reilly patent"). This rejection is respectfully traversed.

As specified above with regard to Claim 1, Applicants submit that the Hirschman and Reilly patents do not disclose a lever arm connected to the drive member to impart reciprocal linear motion to the syringe plunger. While the Office Action recites some of

the relevant language of the rejected claims and then states that the Hirschman and Reilly patents teach the claimed device, the rejection does not indicate or refer to any structure in the cited patents that purportedly anticipate the claimed invention. Applicants submit that the unsupported rejection based on the Hirschman and Reilly patents do not rise to the level of a *prima facie* showing of anticipation, and that the rejection should therefore be withdrawn or supported by reference to specific structures in the Hirschman and Reilly patents that purport to anticipate the invention of Claim 1.

With respect to Claim 18, Applicants also submit that a *prima facie* anticipation case has not been made. The Hirschman and Reilly patents do not disclose separate injector and syringe loader devices to which a syringe can be attached, and the Office Action does not indicate any structure in the cited patents to support the stated rejection. Indeed, the Hirschman and Reilly patents disclose an injection device for injecting fluid into a patient.

For at least the above reasons, Applicants submit that the Hirschman and Reilly patents do not disclose each and every element or limitation of Claims 1, 3, 10-13, 18-20 and 22, and that the rejection based thereon should be withdrawn.

#### Request for Consideration of Withdrawn Claims

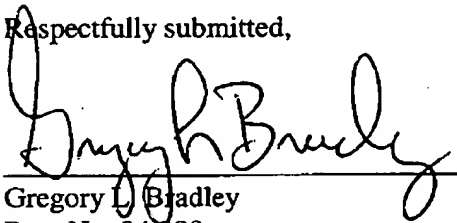
Because generic Claim 18 appears to be in condition for allowance, Applicants request consideration under 37 C.F.R. §1.141 of previously withdrawn Claims 21 and 23-33.

Conclusion

In view of the foregoing amendments and remarks, Applicants submit that the application is now in condition for allowance. Reconsideration of this application is respectfully requested.

Dated: February 26, 2004

Respectfully submitted,

  
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. 703-872-9306) on February 26, 2004

Gregory L. Bradley  
